

**ANNUAL REPORT
OF THE
WATER RESOURCES
STUDY COMMITTEE**



**Indiana Legislative Services Agency
200 W. Washington Street, Suite 301
Indianapolis, Indiana 46204**

October, 2002

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2002

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WATER RESOURCES STUDY COMMITTEE

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John Parkey
Fiscal Analyst for the Committee

A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.state.in.us/legislative/>.

I. STATUTORY AND LEGISLATIVE COUNCIL DIRECTIVES

IC 2-5-25 provides that the Committee shall study and may make recommendations concerning all matters relating to the surface and ground water resources of Indiana, including the following:

- (1) The usage, quality, and quantity of water resources.
- (2) Issues concerning diffused surface water, the common enemy doctrine of law, and runoff.

The Legislative Council assigned the following additional responsibilities to the Committee:

- (1) Review the status of the state's drought response plan and make recommendations for its implementation.
- (2) Investigate and make recommendations concerning a permanent funding source for the "Clean Water Indiana" program.

II. SUMMARY OF WORK PROGRAM

The Committee met twice during the 2002 interim. At the first meeting, held on September 25, 2002, the Committee heard testimony concerning: (1) issues related to low water flow situations, including the status of the state's drought response plan; (2) the "Clean Water Indiana" program and suggestions for a permanent funding source; and (3) building in flood plains.

At the second meeting, held on October 23, 2002, the Committee considered drafts of legislation and approved the final report.

III. SUMMARY OF TESTIMONY

- (1) The Committee heard testimony from the following individuals concerning low water flow and the state's drought response plan:

Jim Hebenstreit, Division of Water, Department of Natural Resources (DNR): Under current law, response to a drought emergency would fall under the jurisdiction of the State Emergency Management Agency (SEMA), which has assembled a drought advisory committee made up of state agency representatives to assist in creating an emergency plan, should one be needed. If a drought emergency occurs, the Governor can declare a state of emergency and make water allocation decisions with SEMA's advice. In addition, the drought manual developed in 1994 provides guidelines for allocation.

Bill Beranek, Indiana Environmental Institute: Various environmental, business, and industrial groups have come together to support the establishment of a water shortage task force (based on the 1994 task force), which would provide a longer term deliberative process to plan for predictable water shortage situations, formalizing the process for allocating water resources in droughts.

Vince Griffin, Indiana Chamber of Commerce: As some businesses come to Indiana because of the generally plentiful water supply, the Chamber supports the development of a drought plan while the state is not in a drought, thus allowing the development of a priority of use schedule for water shortages.

Glenn Pratt, Sierra Club: There is a consensus among groups that the time is right to develop a water usage plan before the next emergency situation arises.

(2) The Committee heard testimony from the following individuals concerning the Clean Water Indiana program and a funding source for the program:

Harry Nikides, Division of Soil Conservation, DNR,: The Clean Water Indiana fund received Build Indiana funds for its programs during the last biennium. In its first year, the fund received \$1 million, of which \$880,000 was distributed to soil and water conservation districts (SWCDs) to match local funds for projects, including filter strips, fencing, and erosion control, which protect and improve water quality in both rural and urban areas. The remaining \$120,000 was put into the conservation reserve program, where it will be matched at a 4 to 1 ratio by federal dollars, with the money used to develop buffer strips along rivers to control erosion and runoff. Because of state budget constraints, no money was received for the second year of the budget cycle, and no permanent funding source is in place for the program.

Glenn Pratt, Sierra Club: In the past, agricultural runoff into streams was a lower priority because of other more urgent concerns, such as urban sewage. As these situations are improved, erosion control and agricultural runoff have become a focus, with cooperative programs needed to help farmers improve conditions so that federal money can be accessed, as well as to avoid possible sanctions.

Lynn Dennis, Nature Conservancy: The Conservancy has been working to develop permanent funding strategies for Clean Water Indiana, and has pledged \$2 million towards the Tippecanoe watershed conservation reserve project, which will be matched at a 4 to 1 ratio by the federal government. This money can be used for specific projects and to provide technical assistance to farmers. As a funding source for Clean Water Indiana programs, the Conservancy has suggested increasing tipping fees.

Tonya Galbraith, Indiana Association of Cities and Towns: The Association does not favor an increase in tipping fees, and is exploring other funding options, such as better leveraging federal dollars for programs.

Bob Edelman, Marion County SWCD: Since 1987, soil erosion levels have decreased and water quality levels have improved. Steady funding for Clean Water Indiana, perhaps with an increase in tipping fees as a part of the funding, should be provided.

Mrs. Barnes, of Madison County: If a farmer has to give up the use of land to provide erosion control, the farmer is giving up income and should be compensated.

Sherm Bryant, Kosciuscko County SWCD: Clean water and air is important to recreation and tourism, and there is a need for dedicated funding for the Clean Water Indiana program.

Gary Thom, Kosciusko County SWCD: There is a need for a dedicated funding source for Clean Water Indiana, and a tax on bottled water could be viewed as a user fee to provide that dedicated funding

(3) The Committee heard testimony from Mike Neyer, DNR, concerning construction in floodways. New home construction is prohibited in floodways (except along certain portions of the Ohio River), and a permit from DNR is necessary to rebuild a home that has sustained damage of more than fifty percent of its value from a nonflood cause. In addition, repairs and construction must meet federal standards. After the Ohio River floods in the mid 1990s, local authorities were given the power to issue permits for reconstruction to facilitate the rebuilding process; however, on January 1, 2001, permitting authority was returned to DNR. Because federal regulations do not define manufactured (mobile) home, modular units can be brought into a floodway as new construction, if the lowest floor level meets the federal requirements.

IV. COMMITTEE RECOMMENDATIONS

The Committee did not reach a consensus concerning the method of establishing a water shortage task force.

The sense of the Committee is that a dedicated funding source for Clean Water Indiana is necessary, and that a tax on bottled water might provide an appropriate source for that funding. (Approved by voice vote, October 23, 2003.)

WITNESS LIST

Mrs. Barnes, Madison County

Bill Beranek, Indiana Environmental Institute

Sherm Bryant, Kosciusko County Soil and Water Conservation District

Lynn Dennis, Nature Conservancy

Bob Edelman, Marion County Soil and Water Conservation District

Tonya Galbraith, Indiana Association of Cities and Towns

Vince Griffin, Indiana Chamber of Commerce

Jim Hebenstreit, Division of Water, Department of Natural Resources

Dan Mathis, Department of Natural Resources

Mike Neyer, Department of Natural Resources

Harry Nikides, Division of Soil Conservation, Department of Natural Resources

Glenn Pratt, Sierra Club

Gary Thom, Kosciusko County Soil and Water Conservation District